

### REMARKS

Applicant respectfully requests reconsideration of the present application based on the foregoing amendments and the following remarks. Applicant(s) herein amend claims 1, 3, 28 and 30. Upon entry of this amendment, claims 1-25 and 28-52 will be pending in the application.

#### *Objections to the Claims*

Claim 1 stands objected to for informalities and has been amended as suggested in the Office Action. Accordingly, the objection should be withdrawn.

#### *Claim Rejections Under 35 U.S.C. 102*

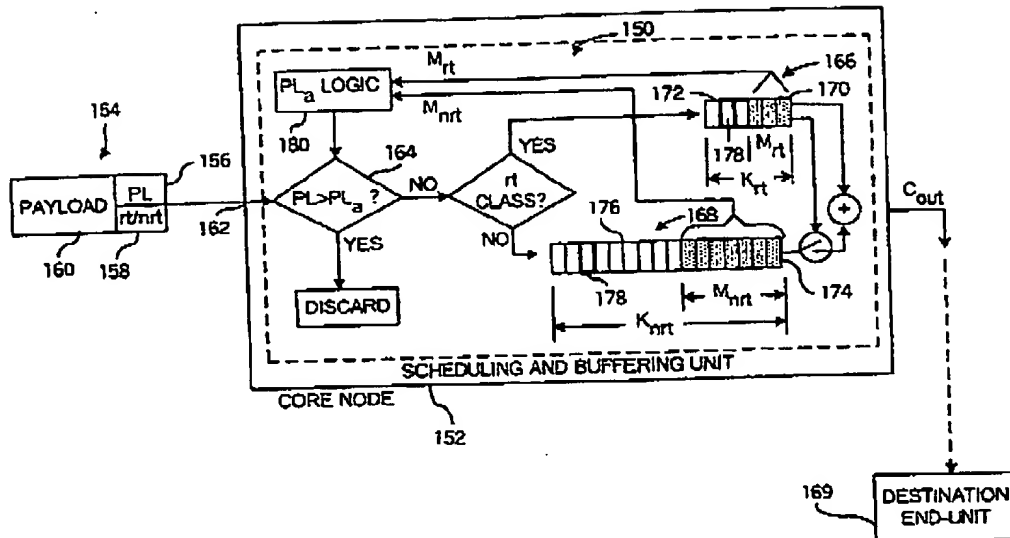
Claims 1, 2, 3, 28, 29 and 30 stand rejected under 35 U.S.C. 102(e) as being unpatentable over U.S. Patent No. 6,549,938 to Kilkki et al. ("Kilkki"). For reasons more fully set forth below, this rejection is respectfully traversed.

Claim 1 (and claim 28 in means plus function form) has been amended to require the steps of:

receiving a stream of data from the switching fabric;  
extracting flow identity information from the stream;  
updating counters corresponding to the stream;  
subjecting the stream to a decision making algorithm in the bandwidth scheduler based on the extracted flow identity information and the updated counters for that particular stream resulting in that the stream is accepted or rejected before said stream enters any queue of said switch.

The Office Action relies primarily on Figure 9 and the associated descriptions in the specification of Kilkki for support for this rejection. Accordingly, Figure 9 of Kilkki is reproduced below for convenience.

FIG.9



As can be clearly seen from Figure 9, Kilkki's "scheduling unit" merely compares a priority level (PL) of an ATM cell 154 to a threshold priority ( $PL_a$ ) when deciding whether to discard the cell. It does not extract flow identity information from the cell, much less use that as a basis to accept or reject the cell as required by amended claim 1.

Even if, *arguendo*, the priority level could be construed as corresponding to the claimed flow identity information, Kilkki still would fail to meet the limitations of amended claim 1. As amended, claim 1 further requires updating counters corresponding to the stream and further deciding whether to accept or reject a stream based on the updated counters for that particular stream. Kilkki does not disclose or suggest such steps.

As should be further clear from the above Figure 9, when determining a threshold priority level  $PL_a$ , Kilkki merely monitors the number of cells occupying buffers 166 and 168. These are not counters corresponding to any particular stream. Rather, they are simply used to compute an available occupancy level of the buffers 166 and 168.

Accordingly, it is respectfully submitted that Kilkki does not disclose or suggest the following explicit limitations from amended independent claim 1:

- extracting flow identity information from the stream;
- updating counters corresponding to the stream;
- deciding whether to accept or reject the stream based on the extracted flow identity information

- deciding whether to accept or reject the stream based on the updated counters for that particular stream

For at least these reasons, amended independent claims 1 and 28, along with claims 2-3 and 29-30 that depend respectively therefrom, patentably define over Kilkki and the rejection should be withdrawn.

### ***Claim Rejections Under 35 U.S.C. 103***

Claims 4, 18, 31 and 45 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kilkki in view of U.S. Patent No. 6,628,609 to Chapman et al. ("Chapman"). Claims 7 and 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kilkki in view of Chapman and further in view of U.S. Patent No. 6,292,465 to Vaid et al. ("Vaid"). Claims 11 and 38 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kilkki in view of Vaid. Claims 21 and 48 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kilkki in view of U.S. Publication No. 2002/0097736 to Cohen ("Cohen"). For reasons set forth more fully below, these rejections are respectfully traversed.

The rejected claims all depend directly or indirectly from independent claims 1 and 28. These claims patentably define over Kilkki for reasons more fully set forth above. The alleged combination of Kilkki with Chapman, Vaid, and/or Cohen would still fail to meet the limitations of claim 1, and so the rejected claims are patentable for at least this reason.

More particularly, claims 1 and 28 require a bandwidth decision making process based on extracted flow identity information to be performed on a stream before the stream enters any queue of a switch. None of the cited references includes stream-rejection decision-making performed on a stream before the stream enters a queue from a switch fabric.

Moreover, as set forth above, Kilkki merely compares a priority level PL of an ATM cell to a threshold. The priority level of the cell is simply a value that is placed in the cell by upstream nodes depending on upstream processing. Kilkki explicitly teaches that the scheduling unit in Figure 9 "make[s] decisions regarding the acceptance and rejection of packets based on the priority of a packet and the occupancy levels of the buffers in the particular core node 104. The core nodes, therefore do not need to obtain information regarding the properties of individual connections." (col. 12, lines 19-23, emphasis added). In other words, Kilkki

explicitly teaches away from making decisions based on extracted flow information for a particular stream. So even if, *arguendo*, one skilled in the art would be led to combine Kilkki with the other references, such skilled artisan would not incorporate any decision-making based on flow identity of particular streams into Kilkki's scheduling unit.

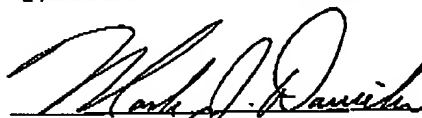
For at least these reasons, claims 4, 7, 11, 18, 31, 34, 38 and 45 patentably define over the cited prior art and the 103 rejection of these claims should be withdrawn.

### *Conclusion*

All objections and rejections having been addressed, the application is believed to be in condition for allowance and Notice to that effect is earnestly solicited. If any issues remain which the Examiner feels may be resolved through a telephone interview, s/he is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,  
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Date: November 10, 2005



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